

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

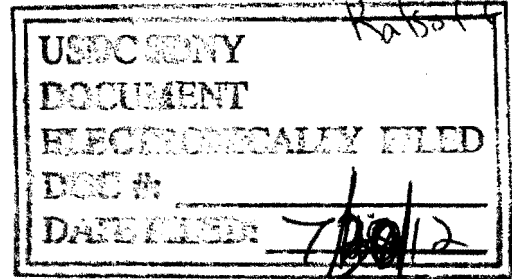
SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

VITESSE SEMICONDUCTOR  
CORPORATION, LOUIS R. TOMASETTA,  
EUGENE F. HOVANEC, YATIN D. MODY,  
AND NICOLE R. KAPLAN

Defendants.



Case No. 10-cv-9239 (JSR)

ECF Case

~~[PROPOSED]~~ THIRD  
AMENDED SCHEDULING  
ORDER [REVISED]

JED S. RAKOFF, U.S.D.J.

Plaintiff Securities and Exchange Commission ("SEC") and Defendants Louis Tomasetta and Eugene Hovanec (collectively, "Defendants") respectfully submit this Proposed Third Amended Scheduling Order. The Court previously entered an order setting forth a discovery and motion schedule keyed off the conclusion of the parallel criminal action. That action proceeded to trial on March 21, 2012, as scheduled, but after five weeks of testimony and several days of deliberations, the jury was unable to reach a verdict on any count against either Defendant. The Honorable United States District Judge Paul A. Crotty declared a mistrial and, on Defendants' motion, acquitted Dr. Tomasetta and Mr. Hovanec on six of seven counts. Judge Crotty has scheduled a retrial on the lone remaining count for January 21, 2013.

On July 19, 2012, the parties participated in a conference call with the Court, during which it indicated a desire to proceed on an expedited schedule following completion of the retrial in the criminal case. Based on the Court's estimate that the criminal retrial will take four weeks, the parties propose the following dates for the completion of remaining discovery and pretrial proceedings in this case:

- March 7, 2013 (or 14 days after the conclusion of the criminal trial, if later): Defendants expert disclosures and responses to Plaintiff's Requests for Admissions;
- March 21, 2013 (or 28 days after the conclusion of the criminal trial, if later): Last day to complete the depositions of Yatin Mody, Nicole Kaplan, Hovanec, Tomasetta and any defense expert witnesses;
- April 2, 2013 (or 12 days after the close of deposition discovery, if later): Motions for Summary Judgment and Motions *in limine* to be filed;
- April 15, 2013 (or 13 days after filing of the Motions for Summary Judgment and/or Motions *in limine*, if later): Oppositions to Motions for Summary Judgment and Motions *in limine* to be filed;
- April 22, 2013 <sup>at 4pm.</sup> Final pre-trial conference and Hearing on Motions for Summary Judgment and Motions *in limine*.

The parties ask the Court to enter an amended scheduling order reflecting the above agreed upon dates.

Respectfully submitted,

Dated: Washington, DC  
July 25, 2012

SECURITIES AND EXCHANGE COMMISSION

By: Jan M. Folena by RSS  
Jan M. Folena  
Attorney for Plaintiff

Dated: Los Angeles, CA  
July 25, 2012

MORRISON & FOERSTER LLP

By: Dan Marmalefsky by RS  
Dan Marmalefsky  
Attorneys for Defendant Louis Tomasetta

Dated: Los Angeles, CA  
July 25, 2012

BIRD, MARELLA, BOXER, WOLPERT,  
NESSIM, DROOKS & LINCENBERG, PC

By: Peter J. Shakow  
Peter J. Shakow  
Attorneys for Defendant Eugene Hovanec

SO ORDERED:

Dated: New York, NY

7/28, 2012

  
\_\_\_\_\_  
HON. JED S. RAKOFF  
UNITED STATES DISTRICT JUDGE